

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

JOHN D. MARSHALL, M. D.,

Plaintiff,

v.

AMERICUS-SUMTER COUNTY HOSPITAL
AUTHORITY, d/b/a SUMTER REGIONAL
HOSPITAL, INC., d/b/a SUMTER REGIONAL
HOSPITAL, et al.,

Defendants.

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CIVIL ACTION NO.
1:01-CV-79-3(WLS)

Brenda J. Pitts

ORIGINAL

PLAINTIFF'S FIRST AMENDMENT TO COMPLAINT

COMES NOW JOHN D. MARSHALL, and pursuant to Rules 15, 20 and 21 of the Federal Rules of Civil Procedure, and amends his Complaint by dropping defendant A. Gatewood Dudley, M.D., P.C. as a named defendant, and by adding Gynecology Associates, P.C. as a named defendant and by striking paragraph 18 of the Complaint in its entirety and substituting in its place the following new Paragraph 18:

18.

Defendant Gynecology Associates, P.C. is a corporation organized under the laws of the State of Georgia with its principal place of business in Americus, Georgia. As such, it is subject to the jurisdiction and venue of this Court. Defendant A. Gatewood Dudley, M.D. is an officer and owner of Gynecology Associates, P.C. Defendant Gynecology Associates, P.C. is liable for the unlawful behavior and conduct of its officers, owners and/or agents. Gynecology Associates, P.C. may be served by delivering a copy of the Complaint (along with the amendment(s) thereto) and Summons to

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its Registered Agent for service, A. Gatewood Dudley, M.D., at 401 South Lee Street, Americus, Georgia 31709.

Plaintiff further amends his Complaint by addition the following title thereto above the introduction:

COMPLAINT FOR DAMAGES, DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff further amends his Complaint by adding the following paragraphs:

COUNT XIV

119.

Plaintiff realleges and incorporates herein by reference paragraphs 1 through 118 of the Complaint.

120.

The individually named physician defendants used Southwest Georgia Healthcare Association (SGHA), its officers, agents, employees and/or servants to initiate and participate in taking corrective action against Plaintiff to reduce competition from Plaintiff rather than to improve patient care.

121.

The individually named physician defendants used Southwest Georgia Healthcare Association (SGHA), its officers, agents, employees and/or servants in order to obtain, manufacture, and create information that the defendants knew would be used to exclude Plaintiff from the medical staff at Sumter Regional Hospital and destroy his practice since Sumter Regional Hospital is the only hospital in the Americus Sumter County area.

122.

The individually named physician defendants' use of SGHA to reduce and destroy competition from Plaintiff caused harm to the public at large as patients who had been receiving medical treatment from Plaintiff in the Americus Sumter County and whose future treatment requires the use of hospital facilities, would be forced to either select another physician or travel to a hospital outside of their area thereby incurring additional expenses and inconvenience.

123.

The acts hereinbefore alleged constitute a violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, and the defendants SGHA, Jerry Adams, Andrew Carlson, Joseph King, III, A. Gatewood Dudley, Gregory Garth, Kenneth DiNella, Michael Busman, Chanh Tu, and Gwendolyn Morgan are liable therefor.

COUNT XV

124.

SGHA has a requirement that all physician members of SGHA must have medical staff privileges at Sumter Regional Hospital.

125.

SGHA policies require that all physician members must refer patients to other physician members who are also SGHA members.

126.

Corrective action was initiated against Plaintiff because he allegedly referred a patient to a physician who was outside of the network and who was not a member of SGHA.

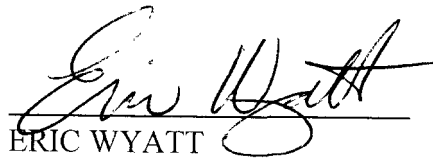
127.

The defendant SGHA's initiation of corrective action against Plaintiff for allegedly referring a patient outside of the network when the same was medically appropriate was the first act undertaken by the defendants against Plaintiff which ultimately provided the alleged basis for the summary suspension of his medical staff privileges at Sumter Regional Hospital.

128.

The conduct hereinbefore alleged constitutes a violation of Section 2 of the Sherman Act, 15 U.S.C. § 2, and the defendants SGHA, Jerry Adams, Andrew Carlson, Joseph King, III, A. Gatewood Dudley, Gregory Garth, Kenneth DiNella, Michael Busman, Chanh Tu, and Gwendolyn Morgan are liable therefor.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Eric Wyatt", written over a horizontal line.

ERIC WYATT
Georgia Bar No. 778955

A handwritten signature in cursive script, appearing to read "George McGriff", written over a horizontal line. To the right of the signature, there is a handwritten note in parentheses: "(w/pem) (SSW)".

GEORGE W. MCGRIFF
Georgia Bar No. 493225

MCGRIFF, CUTHPERT, WYATT & ASSOCIATES, LLC, P. C.
Century Lake Office Park
1774 Century Boulevard, NE
Atlanta, Georgia 30345-3312
(404) 325-2755

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CERTIFICATE OF SERVICE

This is to certify that I have caused a copy of the foregoing Plaintiff's First Amendment to Complaint upon opposing counsel by depositing a copy of the same in the U.S. Mail with adequate postage affixed thereon, properly addressed as follows:

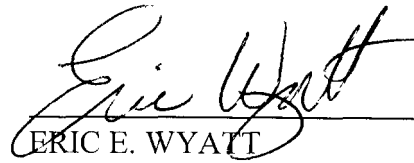
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P. O. Box 2906
Carrollton, Georgia 30117

A. Gatewood Dudley as Agent for Service
For Gynecology Associates, P. C.
401. S. Lee Street
Americus, Georgia 31709

This 22nd day of May 2002.

A handwritten signature in black ink, appearing to read "Eric Wyatt", is written over a horizontal line.

ERIC E. WYATT
Georgia Bar No. 778955
Attorney for Plaintiff

McGRIFF, CUTHPERT, WYATT & ASSOCIATES, LLC, P. C.

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